

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BRIAN JAMES SIMPSON  
TX-1329328-L

§  
§  
§  
§  
§  
§  
§  
§

DOCKETED COMPLAINT NO.  
06-041 & 08-202 AND APPLICATION

**AGREED FINAL ORDER**

On this the 12<sup>th</sup> day of December, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Brian James Simpson and the Application of Brian James Simpson (Respondent).

In order to conclude this matter, Brian James Simpson neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent Brian James Simpson is a Texas state licensed real estate appraiser, holds license number TX-1329328-L, and has been licensed or authorized by the Board during all times material to the above-noted complaint cases.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about August 29<sup>th</sup>, 2002, Respondent appraised real property located at 146 Waikakaaua Drive, Bastrop, Texas 78602 ("the Waikakaaua property"). On or about November 15<sup>th</sup>, 2005, Respondent appraised real property located at 407 Kolekole Lane, Bastrop, Texas 78602 ("the Kolekole property").
4. On or about December 21<sup>st</sup>, 2005 and June 11<sup>th</sup>, 2008, the Complainant, Deloris Kraft-Longoria, filed a staff-initiated complaint for the Waikakaaua and Kolekole property appraisals with the Board. The Kolekole complaint was based upon information submitted by Respondent in conjunction with his experience audit and the Waikakaaua complaint was based upon information submitted by Peter G. Kopperman, Vice President, Single-Family Mortgage Business at Fannie Mae. Both complaints claimed that the Respondent produced an appraisal report that contained various violations of the Uniform Standards of Professional Appraisal Practice.

5. On or about December 28<sup>th</sup>, 2005 and July 1<sup>st</sup>, 2008 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent's response to each complaint was received.

6. Respondent has also filed an application for a residential state certification with the Board.

7. Respondent's application was selected for audit.

8. Upon review of the experience component of Petitioner's application, concerns regarding whether his experience was done in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP") were evaluated.

9. Respondent and the Board have reached agreement on resolution of his application and wish to fully resolve the application and the pending complaint matters by means of this Agreed Final Order.

10. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the properties.

- a) Respondent's work file for the Waikakaaua report was not complete;
- b) Site description and improvement(s) were not adequately identified and reported;
- c) The cost approach does not support the value in the Waikakaaua report;
- d) No cost approach was performed in the Kolekole report and no explanation for its exclusion was given;
- e) Respondent failed to utilize recognized methods by selecting comparable sales that were not the most similar to the subject properties and Respondent did not adjust for dissimilarities with the subject properties adequately;
- f) There was no sales contract in the work file for the Waikakaaua report and Respondent did not analyze and comment on the current agreement of sale;
- g) Respondent did not analyze a prior sale in the Kolekole report and did not reconcile this prior sale to the opinion of value;
- h) Respondent stated that the Cost Approach in the Waikakaaua report supports the final estimate of value; however the cost approach is less than the opinion of value; and,

- i) Respondent's reports for the Kolekole and Waikakaaua properties lacked credibility due to the use of sales that were not the best available and inadequate adjustments.

## CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(x); 2-2(b)(x)(i); 1-4(b)(i) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a) 1-5(a) & 2-2(b)(ix); 1-5 (b) & 2-2(b)(ix); 1-5 (c) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and 2-1(b).

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that:

- a. Staff shall issue Brian James Simpson a residential state certification;
- b. Respondent shall:
  - i. Attend and complete a minimum, 15 classroom-hour course in USPAP;
  - ii. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach or Residential Case Studies;
  - iii. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
  - iv. Payment of a \$1,000.00 administrative penalty, the payment of which is fully probated under the condition that:
    1. During the entire twelve-month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three-month period. This experience long shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of such request;

2. Respondent shall timely complete all of the remedial coursework required in this Order; and,

v. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification or licensure.

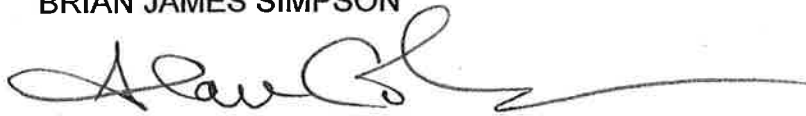
Failure to comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent, including, but not limited to, imposition of the probated administrative penalty.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

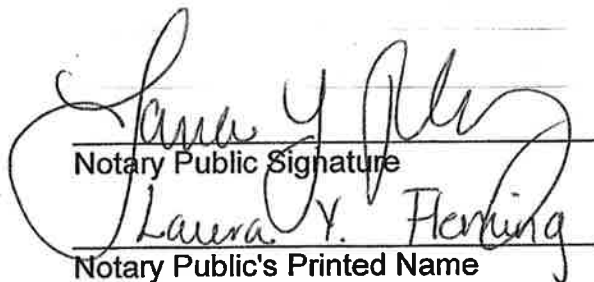
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 10<sup>th</sup> day of November, 2008.

  
BRIAN JAMES SIMPSON


  
ALAN COHEN, ATTORNEY FOR  
BRIAN JAMES SIMPSON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 10<sup>th</sup> day of November, 2008, by BRIAN JAMES SIMPSON, to certify which, witness my hand and official seal.

  
Notary Public Signature  
Laura Y. Fleming  
Notary Public's Printed Name



Signed by the Commissioner this 12th day of December, 2008.

  
Timothy K. Irvine, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 12th day of December, 2008.

  
Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BRIAN JAMES SIMPSON  
TX-1329328-L

§  
§  
§  
§  
§  
§  
§  
§

DOCKETED COMPLAINT NO.  
06-041, 08-202 & APPLICATION

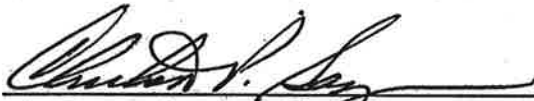
**FINAL ORDER**

On this 11 day of Dec, 2009, the Board considered the above-noted matter, in which an Agreed Final Order was previously entered by the Board.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of Respondent's request for modification of the previously entered Agreed Final Order, attached as Exhibit A hereto, now enters this Final Order modifying the previously entered Agreed Final Order.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that Brian James Simpson is granted an extension of until February 11, 2010 days to satisfy the remedial education requirements contained in the Agreed Final Order.

Approved by the Board and Signed this 11 day of Dec, 2009.



Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board